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SUMMARY RECORD OF THE 46th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 30 November 1995, at 10 a.m.

Chairperson: Mr. CEAUSU

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

- (a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Initial report of Algeria (E/1990/5/Add.22; E/C.12/1995/LQ.4/Rev.1)

1. At the invitation of the Chairperson, Mr. Meghlaoui, Mr. Hebbak, Mr. Hassaine, Mr. Hamed and Mrs. Boubir (Algeria) took their places at the Committee table.
2. The CHAIRPERSON extended a welcome to the delegation of Algeria. The Committee had before it Algeria's initial report (E/1990/5/Add.22), the list of issues (E/C.12/1995/LQ.4/Rev.1) and the Government's written replies to the issues. In reply to a question by Mr. WIMER ZAMBRANO, he confirmed that an additional document prepared by the Women's International League for Peace and Freedom (WILPF), which was not an official Committee document but was available for information under the Committee's procedures, had just been circulated and might be considered at a later stage.
3. Mr. MEGHLAOU (Algeria) said that Algeria had been undergoing a process of rapid and far-reaching change in recent years. The economic, social and political reforms aimed at strengthening democratic structures, improving the functioning of institutions, consolidating the rule of law and establishing genuine multiparty government, as provided for in the 1989 Constitution, were being and would be actively pursued with a view to ensuring social justice, freedom and equality for all and enabling citizens to play a central part in conduct of public affairs and in safeguarding and promoting rights and freedoms. Algeria was a party to virtually all international instruments relating to human rights and international humanitarian law, including the Covenant. It had demonstrated its willingness to cooperate with human rights treaty bodies, the only difficulty being a lack of expertise, but it hoped to be able to overcome that shortcoming and fulfil all its obligations, including its reporting obligations, in a timely manner. It welcomed the opportunity for constructive dialogue with the Committee and would endeavour to make up for the unavoidable absence of an important member of the delegation, its expert on labour and social protection issues.
4. As a background to the report, he went on to describe the country's economic situation and the financial constraints faced by the Government in implementing its policies. The Algerian economy was heavily dependent on petroleum, which represented some 95 per cent of its export earnings, and had consequently been severely affected by the fall in oil prices in the late 1980s and the early 1990s. Its petroleum export earnings had dropped from \$12.35 billion in 1990 to \$8.30 billion dollars in 1994. Meanwhile, debt-servicing payments had amounted to \$9.4 billion in 1993. The resulting decline in imports had affected production, led to shortages in consumer goods and caused social tension. The sectors worst hit by the economic recession were agriculture already suffering from persistent draught and structural difficulties, construction and public works, and industry, operating at 50 per cent of capacity. The unemployment rate had stood at 22 per cent of

the active population at the beginning of 1993, and an estimated 1.5 million persons were now affected, with 250,000 new job-seekers coming on to the labour market every year.

5. As of 1988, the Government had taken steps to improve the overall management of the economy. Institutional reforms included greater autonomy for public enterprises, the reorganization of foreign trade and the abolition of monopolies, the privatization of agriculture, greater flexibility in working relations and the liberalization of private investment. Macroeconomic reforms covered credit policy, the structure and level of interest rates, exchange rates, fiscal policy and the liberalization of prices. Those efforts had succeeded in preventing the collapse of economic activity, with GDP growth rates averaging 0.4 per cent over the six years from 1988 to 1993, although in terms of the 3 per cent population growth, that growth rate was clearly insufficient.

6. Harsh austerity measures, with a 50 per cent decline in the volume of imports, had had to be taken on account of the foreign debt, which was a major obstacle to economic growth. From 1991 to 1993, Algeria had made net transfers in repayment of its foreign debt of an average of \$3 billion a year. The debt service ratio had averaged 75 per cent between 1988 and 1993. As oil prices had continued to decline, it had proved impossible to meet economic growth targets and the Algerian Government had embarked on a wider reform programme supported by International Monetary Fund (IMF) agreements in order to revive economic activity and help the population, which had borne the brunt of the recession. The debt had been rescheduled, with a target date of 1998 for a return to balanced external accounts. After rescheduling, the foreign debt service ratio had been brought down from 86.13 per cent in 1993 to 47.97 per cent in 1994, when it would otherwise have been 93.84 per cent.

7. In 1994, despite the difficult social and security situation, the authorities had decided to speed up the transition to a market economy, with a reduction in State control, a shifting of available resources to producers and households and promotion of the private sector. Social measures - including a social "safety net" - had been introduced to alleviate the effects of structural adjustment on the most disadvantaged and vulnerable groups, and, as of 1 July 1994, an unemployment insurance system had been introduced for all wage-earners laid off for economic reasons. The Government was also continuing with its practice of subsidizing consumer prices. Special mention should be made of the subsidies to transport costs so that goods could be brought to remote populations, especially in the south of the country, at affordable prices.

8. The Government's reforms had already yielded significant results. The decline in growth (-2.2 per cent in 1993) had been halted in 1994 and a 5 per cent GDP growth rate was expected for 1995. In 1994, the inflation rate had been brought down to 29 per cent instead of an expected 42 per cent, and foreign exchange reserves amounted to \$2.6 billion. All essential consumer goods - food, building materials and medicines - were available throughout the country, a considerable improvement over previous years, when, for instance, the right to health had been at risk on account of the shortages of medical supplies. The immunization, birth control and tuberculosis control programmes had even had to be suspended for some months in 1991 and 1992.

Overall consumption had increased from -2.1 per cent in 1993 to +0.5 per cent, and was still on the rise. Factories were still being supplied. Streamlining of the public sector was being vigorously pursued, bearing in mind the need to maintain employment. It was a costly operation, conducted in consultation with all social partners. Investments had grown by 1.2 per cent in 1994, as against a fall of -3.2 per cent in 1993.

9. Particularly noteworthy was the revival of economic activity in sectors considered crucial to economic growth. In the construction sector, the number of housing units built had risen from 40,000 in 1993 to 80,000 in 1994 and an anticipated 160,000 in 1995. In the agricultural sector, 45,000 jobs had been created, the target of 100,000 would be met by the end of 1995, and measures were being considered to create a further 100,000 jobs as from 1996. Strong encouragement was being given to small- and medium-sized enterprises, with significant results. For example, by the end of 1994, 650 investment projects benefiting from special incentive measures had been introduced and would create some 60,000 jobs. All those positive trends were all the more significant in view of a difficult security situation marked by the destruction of economic and social infrastructure. That situation was now improving. On 27 November 1995, the first President to have been elected by universal suffrage after free and fair multiparty elections, had been sworn in - a major step towards resolving the multifaceted crisis Algeria was undergoing. The measures taken by the Government of Algeria to overcome its economic difficulties were underpinned by its concern to provide social protection for the population in health, training, education and employment.

10. The CHAIRPERSON invited the Committee and the Algerian delegation to proceed with their consideration of the list of issues contained in document E/C.12/1995/LQ.4/Rev.1 and Algeria's written replies thereto.

General framework of implementation of the Covenant (Issues Nos. 1-5)

11. Mr. SIMMA referred to the reply to issue No. 4 and the statement that because of the absence of any special procedure for the integration of international conventions into the Algerian legal system, the Covenant formed an integral part of national legislation. What was meant by a "special procedure"? Did conventions, including the Covenant, automatically become law or did they require ratification by the President of the Republic or parliamentary approval? As to the statement that treaties had an authority higher than that of the laws, how did the precedence of treaties over domestic laws work in practice? Had there been cases in which the provisions of such treaties had been invoked before the courts, and how had the courts responded?

12. Mr. TEXIER said that he welcomed recent developments in Algeria, especially the presidential election, although the situation still gave great cause for concern. He expressed sympathy with the Algerian population, which had witnessed so much bloodshed and, in particular, the murder of intellectuals. In that regard, it was gratifying that Algeria was entering into what he hoped would be a fruitful dialogue with the Committee.

13. Further to Algeria's reply to issue No. 3 that the exceptional measures taken under the state of emergency had all been accompanied by guarantees of

the protection of human rights, he wished to know more about the effect of those measures on the full exercise of the economic, social and cultural rights of the Algerian population, especially trade union rights, the right to strike and freedom of expression. The latter, though primarily a question of civil and political rights, was relevant in that the representatives of Algerian culture had been the main targets of the violence in Algeria. He associated himself with the question asked by Mr. Simma on issue No. 4, but would word his question somewhat differently. Article 123 of the Algerian Constitution stated that treaties ratified by the President of the Republic had an authority higher than that of the laws. Which provisions in domestic legislation might conflict with the provisions of the Covenant, for instance with regard to non-discrimination, especially against women? He would also like to know whether, after the Covenant had been ratified, domestic legislation was amended to bring it into conformity with the provisions of the Covenant.

14. Mr. ADEKUOYE said he looked forward to a constructive dialogue with the Algerian delegation, the purpose of which was not only to monitor observance of the Covenant but also to ensure the progress and prosperity of the nation. He observed that no reference was made to non-governmental organizations (NGOs) in the written reply to issue No. 1. Had NGOs been involved in any way in the drafting of the report, either by providing input or participating in relevant meetings? Furthermore, he would welcome more information on non-governmental organizations in Algeria, in general.

15. Comprehensive information had been provided in the written replies on the measures envisaged for widely publicizing the principles and provisions of the Covenant. The importance of education and the dissemination of information as an effective weapon against prejudice and negative traditions could not be denied. Given the work apparently done in human rights activities in Algeria, it was somewhat surprising that allegations continued to be made of violence against women in the home and discrimination against minorities. He wondered whether human rights were incorporated in the national curriculum at the primary school level. That would create better awareness about such problems from early childhood.

16. Mrs. AHODIKEPE, further to Mr. Simma's and Mr. Texier's remarks, inquired whether there had been any specific cases of the Covenant being directly invoked before the Algerian courts.

17. Mrs. JIMENEZ BUTRAGUEÑO said she welcomed the presence of women on the Algerian delegation, since she attached great importance to the role of women in all walks of Algerian life. Were the views of women being taken duly into account, for instance in amendments made to the Civil Code and other legislative provisions. Perhaps there were women's associations for that purpose? She was greatly concerned by the violence perpetrated against women who failed to observe traditional Muslim dress. Women should be allowed to make a choice in such matters. Furthermore, did women hold high-ranking positions, for example, in the legislature?

18. The CHAIRPERSON, speaking as a member of the Committee, said he understood that the Covenant had been ratified by the promulgation of a law in

the Official Journal. Had the text of the Covenant also been reproduced on that occasion? It was essential for the competent authorities to be familiar with its contents.

19. Mr. MEGHLAOU (Algeria) pointed out that terrorist violence in Algeria was not directed exclusively at women, but affected all sectors of the Algerian population, as well as foreigners. Journalists were of course favourite targets, since attacks on them created a good deal of publicity. Perhaps Mr. Adekuoye could further clarify his query regarding minorities. The definition of national and indigenous minorities was open to question, as was borne out by the current inconclusive debate at the meeting of the relevant United Nations body. Neither the text of the International Covenant on Civil and Political Rights nor that of the International Covenant on Economic, Social and Cultural Rights had been published in the Official Journal. However, the text was reproduced in publications issued by the National Human Rights Observatory. The Covenant was also publicized in the press and media and a number of very dynamic civic associations operating in Algeria.

20. Mr. HAMED (Algeria) said that article 123 of the Constitution provided that treaties ratified by the President of the Republic, subject to the conditions laid down in the Constitution, took precedence over domestic law. That had been reinforced by the Decision No. 1 of the Constitutional Council of 20 August 1989, whereby, once ratified and published, any convention must form an integral part of national law, and take precedence under the terms of article 123 of the Constitution. Furthermore, under the same Decision, Algerian citizens were authorized to invoke such conventions in court. He was certain that there had been no cases of Algerian citizens invoking the Covenant before the courts so far, possibly because they had not found any legislation which ran counter to the international instruments ratified by Algeria.

21. Mr. MEGHLAOU (Algeria), responding to Mr. Texier's questions, affirmed that freedom of association and the right to strike had not been adversely affected by the state of emergency declared in Algeria. Nor had there been any restrictions on freedom of expression. Algeria was one of the third-world countries where the press enjoyed considerable freedom. He would circulate samples of the national press among members to bear that out. Attacks on journalists had obviously been deliberately chosen to give the greatest possible publicity to such incidents at home and abroad. The State had none the less done its utmost to protect journalists.

22. Mr. HEBBAK (Algeria), citing statistics provided by the Ministry of Labour to show that the right to strike had not been infringed during the state of emergency, said there had been 1,767 strikes or work stoppages in the public sector in 1990, 921 in 1991 and 426 in 1992. The figures for strike action in the private sector were significantly lower: 137 in 1990; 113 in 1991; 65 in 1992. Furthermore, a considerable number of trade unions had been set up in the 1990s, particularly in the field of education. Although the majority of teachers were affiliated to UGTA, many others had joined a new and very dynamic trade union called SATEF. A new trade union (Union Démocratique du Travail) had also been established to represent workers in the industrial

sector. That information corroborated the delegation's statement that the right to freedom of association had not been adversely affected during the state of emergency.

23. The report before the Committee had been drafted by the Ministry of Foreign Affairs in close cooperation with representatives of the Ministries of Education, Justice, Labour and Social Protection, Health, as well as the State Secretariat for National Solidarity and the Family. The latter encompassed thousands of associations that had been set up since politics had been opened up in 1989 and it served as a vehicle for NGO input for the report. Accordingly, although the report had actually been drafted at governmental level, the contribution of numerous associations, particularly youth organizations, had been taken into account.

24. Mr. AHMED thanked the delegation for its exhaustive exposé and willingness to answer all questions raised. He would welcome further information about the existence of NGOs with the specific task of monitoring the application of the Covenant. Were they allowed by the Government to carry out their activities openly and travel to Geneva or elsewhere to state their views, notwithstanding the state of emergency? Furthermore, was the Algerian Government aware of the existence of Women's International League for Peace and Freedom (WILPF)? Was it in fact an Algerian NGO?

25. Mr. GRISSA read out a reservation entered by the Algerian Government regarding the International Covenant on Civil and Political Rights, which was relevant to the work of the Committee. The Algerian Government had reserved the right to interpret the reference to "rights and responsibilities of spouses" in article 23, paragraph 4 of the Covenant as not affecting under any circumstances the basis of the Algerian legal system. The delegation had asserted that treaties took precedence over domestic legislation, yet the reservation implied that, in the case of a contradiction between Algerian law and the Covenant, the former would be given priority. Furthermore, what exactly was meant by the "rights and responsibilities of spouses"? What of the rights and responsibilities of women?

26. Mr. ADEKUOYE said he was well aware of the current controversy regarding the definition of national minorities and indigenous populations, but it had no bearing on his question. The law was supposed to take account of what was desirable and, regrettably, human beings were somewhat conservative in nature and often slow to change their attitudes and comply with the law. According to the law, husbands should not inflict violence on their wives, yet the incidence of violence against women in Algeria was significant.

27. Similarly, notwithstanding legislation against discrimination, a report by the Committee on the Elimination of Racial Discrimination alleged that the black minority living in the southern region of Algeria was particularly disadvantaged in terms of access to housing and education. What efforts were being made by the Government to provide information on such issues in the school curriculum so as to ensure greater awareness of human rights from a very early age?

28. Mrs. BONOAN-DANDAN welcomed the news that the Algerian Government was in favour of the creation of a corpus of sacrosanct economic, social and cultural

rights to which no exception should be permitted, as indicated in its written replies to issue No. 5 (E/C.12/1995/LQ4/Rev.1). Did that mean that the Algerian Government was also in favour of incorporating the women's rights enunciated in the Covenant in the optional protocol? To her knowledge, Algeria was not a signatory to the Convention on the Elimination of All Forms of Discrimination against Women.

29. Mr. ALVAREZ VITA said that additional clarification was required on a legal issue, which the delegation could provide in writing or orally. As he understood it, international instruments came after the Constitution in the legal hierarchy. However, the status of Islamic law (Shari'a) vis-à-vis the Constitution and international instruments was not made clear in the report. Moreover, the information given in the written replies was sometimes contradictory in that respect.

30. The CHAIRPERSON, replying to Mr. Ahmed's query, recalled that the Women's International League for Peace and Freedom (WILPF) had been one of the organizations that had participated in the NGO hearing on the opening day of the present session. It was an international NGO in consultative status with the Economic and Social Council, in category II.

31. Mr. MEGHLOUI (Algeria) said that NGOs were empowered to monitor the application of the Covenant in Algeria, where they enjoyed total freedom. The procedure for official recognition merely consisted in depositing a copy of the by-laws at the appropriate Government department. No Algerian NGOs had to resort to clandestine activities. He believed, and would confirm in due course, that approximately 40,000 associations had been set up in recent years, although those operating at national level were considerably fewer in number. He could not be certain as to how many NGOs dealt specifically with economic, social and cultural rights. However, he assured the Committee that all governmental decisions regarding economic and social issues were taken in cooperation with the trade unions and employers' associations.

32. In Algeria there was no problem of national minorities as such. Admittedly there were blacks in the south, but the population there was not exclusively black. The Algerian population was a real melting pot of races and it was extremely difficult to say who was black, white or Berber, although Berber was an imported term which Algerians preferred not to use. No discrimination was permitted. Everybody enjoyed the same rights, but for historical reasons some regions were more developed than others - an imbalance which the Government was trying to correct.

33. The Government was definitely in favour of women's rights. True, it had not yet ratified the Convention on the Elimination of Discrimination against Women, but the ratification process was well under way. In any case, women were very active in Algerian public life. A number of women's NGOs existed; representatives were able to move freely both within Algeria and abroad, and some of them had recently taken part in major United Nations conferences. The only requirement for setting up an NGO was to apply for registration.

34. Mr. HAMED (Algeria) explained that his country had entered its reservation regarding relations between spouses because in Algeria such relations were governed by Muslim law, Islam being the official religion. The

reservation was not against the operation of the Covenant in Algerian law in general, but only in respect of relations between spouses.

35. Mrs. BONOAN-DANDAN asked what factors were impeding the full enjoyment of economic, social and cultural rights by all Algerians.

36. Mr. ADEKUOYE noted that Algeria, like Nigeria, was heavily dependent on the export of hydrocarbons. In order to reduce that dependence, Nigeria was endeavouring to diversify its economy. What action was the Algerian Government taking to achieve economic diversification? Again, Nigeria was trying to operate its State-owned industries more in keeping with commercial principles. So far, however, such "commercialization" had led to an increase in prices but not to any increase in productivity. What was the Algerian Government doing to ensure that "commercialization" was accompanied by greater efficiency? In addition, he would like to know what was being done to reduce Algeria's high birth rate, and what the results were.

37. Mr. MEGHLAOU (Algeria), replying to Mrs. Bonoan-Dandan's question, said that it was difficult to answer general questions, but he could inform the Committee that Algeria had always been in the forefront as far as many social services were concerned. For instance, education was compulsory and free of charge. Health care was free for children under 16, for the elderly and for the chronically sick, while other categories of citizens made only token payments. The Covenant was respected, although his delegation would be grateful if the Committee could inform it of any shortcomings, so that they could be corrected. The main constraint on the Government's ability to implement economic, social and cultural rights lay in the economic situation. No State was isolated from the rest of the world economy and Algeria, as a developing country, was the victim of basically unjust economic relations - a situation which had not changed since the 1960s. The Government did not know what the future held in store.

38. In an attempt to promote diversification, emphasis had been laid on the development of agriculture, the long neglect of which had led to great dependence on imported foodstuffs. The first results of the development of new areas in the Sahara were very promising. Small- and medium-size industry was also being encouraged. The Investment Code was very liberal and involved a minimum of paperwork. Official approval for foreign investment was not required and there was a special agency to assist investors at all stages. Tax reductions were available and land could sometimes be purchased at token prices.

39. Security was certainly a major constraint, but the situation was gradually improving, with the growth of democracy. The recent election of the President would be followed by other important elections.

40. An economic recovery programme was being implemented and the growth rate for 1995 was 5 per cent. By 1996 exports of hydrocarbons would have doubled in two years. The devaluation of the dinar was producing an effect on prices, war was being waged on inflation and efforts were being made to raise productivity. In any event, time would be needed in order to see the results of the recent reforms and a clearer picture would doubtless be presented in

Algeria's next periodic report. The birth rate was actually falling, as a result of campaigns to promote child spacing and contraception.

41. The CHAIRPERSON observed that, at the present rate, population growth in Algeria would be zero by the year 2020.

42. Mr. ALVAREZ VITA pointed out that his question had not been answered.

43. Mr. MEGHLAOUI (Algeria) explained that his delegation would prefer to reply at the next meeting.

Article 2 - Non-discrimination; article 3 - Equality between men and women
(Issues Nos. 6-10)

44. Mr. SIMMA, commenting on the question of equality between men and women, said that he had had difficulty in understanding some of the information given in Algeria's report and in its answers to issues Nos. 8-10. In fact, he had experienced a feeling that appeared to be shared by other observers who, when commenting on all Arab countries except Tunisia, had referred to a dichotomy between the reality of women's lives and the Civil Codes. Indeed, to describe that situation, the terms "constitutional chasm" and "legal schizophrenia" had been used. For instance, the one-word affirmative answer to issue No. 10 indicated that women had the right to pursue studies and follow the careers of their choice, without any restriction. However, if that answer was compared with the mass of information which he had received from non-governmental sources and from literature and the press, it would seem simply not to be true.

45. For example, one of the leading German news magazines had recently reported a case in which a woman lawyer who had wanted to travel abroad had had to obtain permission to do so from her son, her closest male relative. The United States State Department's report on Algeria for 1994 indicated that the Family Code, based on the Shari'a, regarded women as minors under the legal guardianship of their husbands or fathers; that women did not have full legal responsibility for their children because the father must sign all relevant documents; that a woman's testimony in a court of law was not equal to that of a man; that women needed their husband's or father's permission to obtain a passport or travel abroad; that only males could confer citizenship on their children; that Muslim women were prohibited from marrying non-Muslims, although Muslim men were legally free to do so; that in cases of divorce the courts awarded guardianship of the children to the father, even though the mother was usually expected to care for them until a son reached the age of 13 or a daughter married; and that social pressure against women pursuing a career was strong.

46. In the light of that information and of further information which it would take him literally hours to present, he wondered where the reality lay. The answers to issues Nos. 8-10 gave the impression that everything was fine, but that did not appear to be the case. He would therefore be grateful if the Algerian delegation could give some information on the actual situation with regard to equality between men and women, rather than just quote from the Constitution.

47. The CHAIRPERSON pointed out that more information on the situation of women was to be found in the replies to other issues.

48. Mr. ALVAREZ VITA said that he shared Mr. Simma's concerns. Article 40 of the Civil Code stipulated that men and women were equal in law, as did a sura of the Koran. It was therefore difficult to understand why a woman needed a male sponsor to give her away in marriage. In fact, many questions remained unclear. A man could repudiate his wife, but could a wife repudiate her husband? If men could have more than one wife, why could not women have more than one husband? What precisely was the position with regard to adultery? It was clear that when a married woman committed adultery, a criminal offence was involved, but was a single woman who had sexual relations with a married man punished for adultery? The last part of the reply to issue No. 9, concerning the crime of rape, indicated that aggravating circumstances were involved if the rapist was a minister of religion. Since it appeared that there was no clergy in Islam, the reference must be to ministers of other religions, implying discrimination against them. He might be mistaken, but an explanation of that point would be appreciated.

49. Mrs. JIMENEZ BUTRAGUEÑO said that one of the obstacles to compliance with the covenant appeared to be the preponderance of Islamic law in the Civil Code, especially in matters pertaining to the family. Moreover, in some respects the present Constitution seemed to be a step backward as compared with the previous one. In general, women were treated as minors and she would like to know whether Algeria was considering the possibility of following the example of Tunisia, which had abolished polygamy. In any case, polygamy was a violation of women's rights and dignity.

50. Mr. ADEKUOYE asked whether the provision in the Family Code forbidding women to marry non-Muslims was in conformity with the Constitution, which prohibited discrimination on the grounds, *inter alia*, of sex and of religion. He also noted that the Constitution declared Algeria to be an Islamic State, with Islam the State religion. Did the Algerian delegation see any contradiction between that provision and the fact that many other provisions of the Constitution prohibited discrimination? In the light of Algeria's recent history and the possibility that an ultra-conservative group might one day become the majority party in an open electoral process and subsequently use that provision of the Constitution to persecute other religions, did the Algerian delegation envisage any circumstances in which that provision might be modified?

51. Mr. AHMED said that the Committee was discussing an extremely delicate subject, namely, the religion of Islam. That matter did not fall within the Committee's mandate. Some members were trying to say that the application of Shari'a principles would be a breach of the Covenant. If an Islamic country formulated reservations to the Covenant in respect of family law matters, as Algeria had done, that was because Shari'a law was God's ordinance and thus prevailed over all man-made laws, including the Constitution and the Covenant. In the view of Muslims, Shari'a law could not be altered by any Islamic State or by any international committee or covenant. The fact that Tunisia had changed its laws was a matter for Tunisia and had no consequences for other Islamic States. The Committee must understand that, when discussing Shari'a

law as applicable to family law matters, it was treading on delicate ground and that criticisms of Islam could only lead to recriminations.

52. Referring to questions raised by Mr. Alvarez Vita, he pointed out that the institution of a marriage sponsor was not a requirement of Shari'a law, but merely a traditional custom, comparable to the Christian tradition of giving away the bride. As for the right of a woman to divorce her husband, she had that right in Islamic law, provided that it was expressly stipulated in the marriage contract.

53. Mrs. Jiménez Butragueño had said that other Islamic countries should follow Tunisia's example and limit the practice of polygamy. If those countries wished to continue to respect God's law, it was not for the Committee to dictate what course they should take. In point of fact, the Koran frowned upon polygamy, which was permitted only in very limited circumstances.

54. The CHAIRPERSON said that members of the Committee were asking to take the floor on points of order.

55. Mr. AHMED said that he, too, was speaking on a point of order. He was asking the Committee to tread warily when discussing religious matters.

56. The CHAIRPERSON said he agreed with Mr. Ahmed that the Committee was not competent to discuss religious dogma. Unfortunately, it was Mr. Ahmed himself who had embarked on a discussion of the value of a particular religion. Members of the Committee were free to ask any questions that had a bearing on a State's fulfilment of its freely assumed obligations under the Covenant. However, if they were to make value judgements about religious dogma, he would be obliged to stop the discussion and ask speakers to confine themselves to matters falling within the Committee's terms of reference. He was confident that no member of the Committee harboured such an intention, and he thus appealed to members to continue their discussions in the serene and friendly atmosphere that had hitherto prevailed.

57. Mr. AHMED said he merely wished to make the point that, when an Islamic country invoked Shari'a law in relation to family law matters, the Committee should accept that the Shari'a was God's ordinance. With that proviso, members were free to speak their minds.

58. The CHAIRPERSON said it was not the Committee's task to accept or reject the religious or ethical values held by States parties. Its task was to draft concluding observations and, in so doing, it would take all due care not to pass judgements that might be hurtful to the religious feelings of those who read the Committee's report.

59. Mrs. AHODIKEPE said that, in the course of her discussions with Algerian women lawyers, she had been told that Algerian women suffered discrimination in a number of respects. Could the Algerian delegation dispel her doubts as to the real legal status of Algerian women? She also wished to know how repudiation worked in practice.

60. Mr. SIMMA said that the Committee's task was to measure States parties' performance of their obligations under the Covenant. States that ratified the Covenant were legally bound to abide by it and could not invoke reasons - whether constitutional, legislative or religious - for failing to do so. In the case of Algeria, there was the added complication of having to compare the provisions of the Constitution with those of the Family Code, which many Algerians referred to as the "code de l'infamie". If his own country, Germany, were to revert to the practice of burning thousands of women at the stake, as it had in the fifteenth to seventeenth centuries, he would not be happy if Germany claimed that that was a religious matter in which the Committee was not entitled to interfere. If religious reasons compelled a country to disregard its commitments under the Covenant, it should not have become a party to the Covenant in the first place, or it should have formulated a reservation. According to the documentation, Algeria had not entered any reservations, and was thus bound to abide by the Covenant as it stood.

61. Mr. GRISSA said that he took issue both with Mr. Simma and with Mr. Ahmed. The Shari'a could be interpreted in various ways. If Turkey and Tunisia had changed their laws, that was because their circumstances had so permitted. Algeria had formulated reservations to another Covenant; he was not sure whether that reservation could be invoked in the present case. The Committee should understand the special circumstances in Algeria, and to raise the issue of the Shari'a now did not help the Government to find solutions to its problems. None the less, most educated Algerians, women and men alike, wanted to change the law, as the Algerian delegation would probably concede.

62. Mrs. BONOAN-DANDAN said she had asked her earlier question, concerning factors and difficulties impeding the full realization of the economic, social and cultural rights of all Algerians, because she had wanted to give the Algerian delegation the opportunity to admit frankly that there was a problem with regard to the dichotomy between religious and civil law. She had been surprised, and very disappointed, to hear the Algerian delegation assure the Committee that women's rights were respected, when she had instead expected a frank avowal that a problem did exist. Furthermore, the delegation had given mollifying assurances that its Government was indeed ratifying the Convention on the Elimination of All Forms of Discrimination against Women, when, in point of fact, the reality of the situation in Algeria was known to all and sundry. If there was to be a constructive dialogue between the Committee and the Algerian delegation, the delegation must lay its cards on the table.

63. Mr. ADEKUOYE said that an element of tension had crept into the Committee's debate. In asking his question he had had no intention of attacking religion. He would, however, have liked to see the relevant provision in the Algerian Constitution state that there should be no discrimination except in so far as, in accordance with Shari'a, a woman would not be permitted to marry a non-Muslim. Any form of discrimination should be recognized as such.

64. The CHAIRPERSON again called upon members to avoid discussing matters of religious dogma. He noted that section (b) of the written replies to issue No. 9 stated that Act No. 84-11, dated 9 June 1984, established a Family Code based on Shari'a principles. The Committee was thus free to discuss, not the

Shari'a, but the provisions of that Family Code, and there was no call to discuss matters that fell outside its terms of reference.

65. As the Algerian delegation might require some time to prepare its replies, it might perhaps be better to postpone those replies until the afternoon's meeting. The Algerian delegation was, of course, free to take the floor to express any immediate reactions.

66. Mr. MEGHLAOU (Algeria) said he wished to make a few general comments. He could assure Mrs. Bonoan-Dandan that his delegation had no intention of evading questions and that it wished to place all its cards on the table in a spirit of total transparency. It was extremely difficult, however, to answer questions of a highly general nature. Precise questions would always receive an answer.

67. It was the sovereign right of any State to make reservations. The Committee would see from a perusal of the documentation that Algeria was one of the countries that had formulated the fewest reservations to international conventions.

68. It seemed that some people could consider the Shari'a only in a negative light. That approach was wrong, as would be seen when his delegation replied to some remarks made by Mr. Simma, who had referred to information that was not necessarily reliable. Human rights treaty bodies must not cite articles from the press in order to pass judgement on the situation in a particular country.

69. Mr. Grissa was right to say that the law reflected the state of society at a given time. A Government could not afford to jeopardize public order by imposing upon a society a law that it was not ready to accept. A law was a response to a given situation in society at a given moment. Once a law was out of date, it fell into abeyance.

70. While his delegation was able to respond immediately to some questions, it might be better to postpone all the replies until the next meeting, when a calmer atmosphere would prevail. Meanwhile, he wished to point out that his delegation was not responsible for the turn the debate had taken.

71. The CHAIRPERSON said it was the Committee's practice to refer to information gathered from all available sources, including the press and media. Of course, all due care was taken to ensure that any acts imputed to a State or judgements expressed were indeed worthy of mention in the debates of a United Nations body. Delegations of States parties had the opportunity to correct any errors, to deny allegations and to provide additional information. Furthermore, if judgements had not been verified and had not been reached by consensus, they were not included in the Committee's concluding observations.

72. If the Algerian delegation did not wish to provide any additional information on article 6, he would invite members to formulate additional comments and questions on the written replies submitted.

73. Mrs. JIMENEZ BUTRAGUEÑO said that, according to the document distributed to Committee members by the non-governmental organization WILPF, in 1992 the

Ministry of Justice had been asked to draft a study on the feasibility of amending or partly repealing the 1984 Family Code, which had been drafted and adopted without consultation with women's associations. Was that statement correct?

74. The CHAIRPERSON said it was his understanding that Mrs. Jiménez Butragueño had just formulated an additional question relating to article 3. Members would have an opportunity to put additional questions concerning the status of women when the Committee turned to its consideration of article 10.

75. Mr. TEXIER said he would have welcomed fuller details on unemployment trends in Algeria. In his introductory statement Mr. Meghlaoui had given an unemployment figure of 22 per cent. Did that represent an increase or a decline? What specific programmes existed to fight unemployment, and especially the acute problems of youth unemployment and long-term unemployment? What subsidies or compensation were there for the unemployed? In calculating the rate of unemployment, were persons with precarious employment or those in retraining schemes included in the figures?

76. The CHAIRPERSON, speaking as a member of the Committee, asked the Algerian delegation to clarify the term "active population". The delegation of another State party had used the different concept of the "employable" population. What groups of persons were included in the "active population" category?

The meeting rose at 1 p.m.